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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,813	11/10/2003	Milind Kulkarni	MEMC 02-0201 (3035.1)	5409

321 7590 07/11/2006

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

KUNEMUND, ROBERT M

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/705,813	Applicant(s) KULKARNI, MILIND	
	Examiner Robert M. Kunemund	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 to 6 and 21 to 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueya (Jp 63008291).

The Ueya reference teaches a seed puller and a method of growing a crystal. The apparatus consists of a chamber with a crucible. A melt is formed in the crucible. There is a means to pull of crystal form the melt and create a crystal ingot. There is a heater around the crucible. There is a second heater that is just above the melt to keep the melt at a set temperature, note the figures. The sole difference between the instant claims and the prior art is the area that the second heater covers. However, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to determine the optimum, operable cover area of the second heater in the Ueya reference in order to effectively heat the melt at a constant rate.

Claims 7 to 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueya (Jp 63008291) in view of Kotooka et al (6,117,402) and Jp (11-255,577).

The Ueya reference is relied on for the same reasons as stated, supra, and differs from the instant claims in the reflector and heater around the ingot. However, the Kotooka et al reference teaches heaters around the crystal, note figures and the Jp (11-255,577) reference teaches the reflector with a melt heater. It would have been obvious to one of ordinary skill in the art to modify the Ueya et al reference by the teachings of

the Kotooka et al and Jp (11-255,577) reference in order to create the desired profile in the crystal.

Claims 25 to 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueya (Jp 63008291) in view of Kotooka et al (6,117,402) and Jp (11-255,577).

The references are relied on for the same reasons as stated, supra, and differ from the instant claims in the control of the crystal growth. However, in the absence of unexpected results, it would have been obvious to one of ordinary skill in the art to determine through routine experimentations the optimum, operable controls step in the combined references in order to grow the desired crystal as the conditions do effect the ingot.

Response to Applicants' Arguments

Applicant's arguments filed April 28, 2006 have been fully considered but they are not persuasive.

Applicants' argument concerning the apparatus claims is noted. However, the apparatus of the prior art must only be capable of performing the function or process set forth in the claims. Clearly, the apparatus of the Ueya reference can heat an uncovered melt portion at the top of the melt. The means are the same as instantly claimed and in the same place. Thus, the prior art reads on the instant apparatus and renders the amount of area covered by the heater obvious to one of ordinary skill.

Applicants' argument concerning the method claims has been considered and not deemed persuasive. The claims do not exclude the use of a covering melt. The specification when referring to the uncovered melt is referring to the area not covered by

the seed crystal or ingot and lids. Thus, the prior art reference does and is pertinent to the instant invention and method claims. The prior art does teach heating parts of the uncovered melt that is referred to by applicants own specification.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Kunemund whose telephone number is 571-272-1464. The examiner can normally be reached on 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert M. Kunemund
Primary Examiner
Art Unit 1722

RMK